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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,412	12/13/2001	Martin Hildebrand	ZAHFRI P393US	I202

20210            7590            03/17/2003

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EXAMINER
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HO, HA DINH

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/018,412	HILDEBRAND ET AL.
	Examiner Ha D. Ho	Art Unit 3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extension of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 December 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 8-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 8-11 and 13 is/are rejected.

7) Claim(s) 12 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

1. This is the first Office Action on the merits of Application No. 10/018,412 filed on 12/13/01.
2. Receipt is acknowledged of the Preliminary Amendment filed on 12/13/01. Claims 1-7 have been canceled, and new claims 8-13 have been added accordingly. Claims 8-13 are currently pending.

*Claim Objections*

3. Claims 8, 9 and 12 are objected to because of the following informalities:

Claim 8, line 5, --said-- should be inserted before “damping”.

Claim 8, line 6, “a” should be changed to --said--.

Claim 9, line 2, --said-- should be inserted before “shafts”.

Claim 9, line 2, “a” should be changed to --said--.

Claim 9, line 3, “a” (both occurrences) should be changed to --said--.

Claim 12, line 3, “110” should be changed to --10--.

Claim 12, line 4, “a” should be changed to --said--.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 8, 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura et al. (US 5,295,414).

Nakamura et al'414 teaches a power distribution transmission (see Figs. 2-5) having a hydraulic pump (i.e., the pump having the shaft 17) and a hydraulic motor (i.e., the motor having the shaft 20) connected to a transmission housing (3) via elastic damping elements (150), the hydraulic pump and motor communicate with mechanical power branch via shafts (18, 21) which are floatingly supported (i.e., by means of the ball joints 22), wherein the shafts (18, 21) have crowned teeth (see Fig. 4). Regarding claims 10, 11 and 13, Nakamura et al'414 shows the an intermediate plate (12) having receptacles (15) radially disposed around an axis of rotation of the the pump, and the damping elements (150) being situated in one plane (see Fig. 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolinger et al. (US 4,111,003) in view of Lehle et al. (US 6,042,496).

Bolinger et al'003 teaches a power distribution transmission having a hydraulic pump (30) and a hydraulic motor (31) connected to a transmission housing (12) via elastic damping elements (80, 81), the hydraulic pump and motor (30, 31) communicate with mechanical power branch via shafts (51, 53), wherein the shafts (51, 53) have crowned teeth (i.e., gears 52, 54).

Bolinger et al'003 does not shows the shafts (51, 53) being floatingly supported. Lehle et al'496

shows a similar power distribution transmission having hydraulic pump motor (4, 6) communicating with mechanical power branch via shafts (3, 7). Lehle et al'496 further discloses that the shaft (3) is floatingly supported for axial-play compensating (col. 2, lines 25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the power distribution transmission of Bolinger et al'003 such that the shafts (51, 53) are floatingly supported in view of Lehle et al'496 in order to provide axial-play compensating (col. 2, lines 25-27). Regarding claim 9, Bolinger et al'003 shows toothed wheels (63, 70), which are connected via shafts (51, 53) with the hydraulic pump and motor (30, 31), being supported by bearing (61, 62, 72, 73).

*Allowable Subject Matter*

8. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Cited Prior Art*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Jensen'478 shows a hydrostatic transmission having a hyrdaulic pump and a hydraulic motor. Minegishi et al'911 shows a transmission having a shaft floatingly supported. Hauser'767, Furumoto et al'520, Nakamura et al'156, and Lehle et al'027 which each shows a hydraulic transmission having hyraulic pump and motor and assembly with noise and vibration attenuation means.

*Communication*

10. Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the

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processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P., 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office (Fax No. (703) 305-3597) on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P., 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Ho whose telephone number is (703) 305-0738. The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 5:00 P.M. Eastern Standard Time. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Mr. Charles Marmor, can be reached at (703) 308-0830. Any inquiry of a general nature or relating to the status of this application or proceeding should directed to the Group receptionist whose telephone number is (703) 308-2168.

*Ha Ho 03/13/03*

Ha Ho  
Patent Examiner  
Art Unit 3681